

April 12, 2011

BEFORE THE SURFACE TRANSPORTATION BOARD

Ex Parte No. 705**COMPETITION IN THE RAILROAD INDUSTRY**

COMMENTS OF CF INDUSTRIES, INC.**ENTERED**
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CF Industries, Inc. ("CF"), with eight facilities across North America from which it ships substantial amounts of commodities, serves as a microcosm that can be used to evaluate the state of rail competition. With facilities that (i) are captive to rail; (ii) are captive to a single rail carrier; and (iii) have access to water and pipeline transportation, CF has experienced the full array of railroad "competition." At facilities with true alternatives to rail transportation (or at least are served by more than one railroad), CF has been able to achieve some lower rates. Additionally, for facilities with access to water or pipeline transportation, railroads provide more competitive rates (but have still lost significant volume to other modes of transportation). Conversely, at facilities that either only technically have alternatives or are captive to rail (especially those captive to a single railroad), rates are typically at Revenue/Variable Cost ("RVC") ratios well above 180% and negotiations generally consist of "take what we have proposed or request a tariff rate." In fact, CF has received a rate quote with an RVC ratio in excess of 1,000%. Faced with pursuing limited remedies before the Surface Transportation Board ("Board") under the current regulatory regime, CF is left with few options but to accept higher rates. From CF's perspective, "competition" in the rail industry over the past decade has generally produced increased rates and decreased service.

1. Background

On January 11, 2011 (as modified by its decision dated February 4, 2011), the Surface Transportation Board ("Board") issued a notice requesting comments on the current state of competition in the rail industry ("Notice"). In the Notice, the Board invited comments addressing certain legal, factual and policy matters relating to competition in the rail industry. The Fertilizer Institute, the trade organization which represents the fertilizer industry and of which CF is a member, has submitted comments in this proceeding. CF hereby submits its individual comments to provide specific context to the comments filed by TFI and the Joint Comments of The American Chemistry Council, The Chlorine Institute, Consumers United for Rail Equity, National Grain and Feed Association, The National Industrial Transportation League, and The Fertilizer Institute.

2. Statement of Interest

CF is one of the largest manufacturers and distributors of nitrogen and phosphate fertilizer products in North America. Its principal nitrogen products are ammonia, urea, and urea ammonium nitrate solution ("UAN"); its principal phosphate products are diammonium phosphate ("DAP") and monoammonium phosphate ("MAP"). CF, like others in the fertilizer industry, relies on rail service to transport its fertilizer products safely and cost-effectively to farmers, other customers, and storage facilities throughout the United States and Canada. CF ships approximately 6 million tons of fertilizer by rail annually from eight production plants in North America. As such, competition in the rail industry, or the lack thereof, has a significant effect on CF.

3. Comments

(a) CF Is Dependent on Rail

CF owns facilities throughout the United States and Canada, including:

- Donaldsonville, Louisiana: The largest nitrogen fertilizer complex in North America which has five world-scale ammonia plants, five urea plants, and two UAN plants;
- Medicine Hat, Alberta: A 66% economic interest in the largest nitrogen fertilizer complex in Canada which has two ammonia plants and a urea plant;
- Verdigris, Oklahoma: The second largest UAN production facility in North America which has two ammonia plants, two nitric acid plants, and two UAN plants;
- Plant City, Florida: One of the largest integrated ammonium phosphate fertilizer complexes in the United States;
- Woodward, Oklahoma: This facility located in rural Oklahoma consists of an integrated ammonia plant, a nitric acid plant, a urea plant, a two UAN plants;
- Yazoo City, Mississippi: This facility includes one ammonia plant, four nitric acid plants, an AN plant, and a UAN plant;
- Pt Neal, Iowa: This regional facility consists of an ammonia plant, two urea plants, two nitric acid plants, and a UAN plant;
- Courtright, ON: This facility consists of one ammonia plant, a UAN plant, a nitric acid plant, and one urea plant.

CF's core market and distribution facilities for its production are concentrated in the Midwest grain-producing states. For the vast majority of product CF ships each year, with the exception of the Donaldsonville, Louisiana plant which has access to the Mississippi, there is no viable alternative to rail. For example:

- Each year CF's Medicine Hat facilities ship approximately 400,000 tons of ammonia by rail (consisting of approximately 5,100 carloads) to the Midwest to serve American farmers in the Corn Belt. The closest destination from Medicine Hat is 532 miles and the farthest is 1,504 miles. Shipping by truck is not an alternative because there is insufficient truck capacity to serve this volume and the distances make shipping by truck impractical even if there were sufficient capacity. Thus, CF depends on rail service to transport product from the Medicine Hat facility.
- Plant City's phosphate production requires anhydrous ammonia. Plant City's full requirements for anhydrous ammonia (389,000 tons per year or 4,900 carloads) are shipped 27 miles by rail from CF's Tampa terminal to Plant City. Shifting this volume to truck is impractical and Plant City does not have access to barge transportation.
- CF's inland plants, despite the presence of a local truck market, are highly dependent on rail to service their facilities. In 2010, 85% of what was shipped from the Yazoo City, Mississippi plant, and over 75% of what was shipped from the Verdigris, Oklahoma plant was by rail.

(b) Competition does make a difference

While most of CF's facilities are dependent on rail, those that are not have been able to achieve much better rates. At the Donaldsonville, Louisiana, plant which is located near the Gulf of Mexico, CF has the options of being able to ship by barge and vessel. Additionally, CF has the option to ship ammonia to Midwest terminals via the NuStar pipeline. As a result of having these options, CF is far less dependent on rail transportation at Donaldsonville. In fact, in 2010, only slightly more than 20% of what was shipped from the Donaldsonville plant was by rail.

Seven out of eight CF facilities have access only to a single railroad. Given the lack of access to other modes of transportation (or the infeasibility of other modes), CF is captive to a single railroad at most of its facilities. This captivity has resulted in the railroads offering rates and terms and conditions on a "take it or leave it" basis.

In fact, it is only at those facilities where CF has feasible options (e.g., water versus rail to a destination or multiple railroad options) that it has been able to achieve rate concessions from the railroads. For example:

- With access to two railroads at our Courtright, Ontario plant, CF has been able to negotiate some of most competitive rates to some of our industrial customers;
- CF has distribution facilities located on the Mississippi River. At those facilities that are served by multiple modes of transportation, we have been able to secure some of our lowest rail rates.



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(c) **CF's Rates Are Reflective of a Lack of Competition**

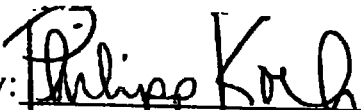
Since the last consolidation of the railroads in early 2000's, CF has seen its rates increase far beyond any cost measure index including the railroad's own Railroad Cost Adjustment Factor – Unadjusted (RACF-U). Since 2004, CF has incurred rate increases on certain routes of over 100%. Generally, CF receives rate quotes with RVC ratios well above 180%. Some rate quotes have had RVC ratios well over 1000%.

The remedies available to CF and other shippers to address such rates, specifically small rate cases, have proven to be ineffective (and largely for the reasons identified by The Fertilizer Institute ("TFI") in its comments in this proceeding). As such, shippers, including CF, have been reluctant to pursue such remedies. If shippers were provided with adequate remedies, such remedies would not only compensate shippers that are charged excessive rates, but also would deter the railroads from charging such rates in the future.

4. **Support of Third-Party Comments**

CF is a member of TFI and, as such, supports and adopts the comments filed by TFI in this proceeding, as well as the Joint Comments of The American Chemistry Council, The Chlorine Institute, Consumers United for Rail Equity, National Grain and Feed Association, The National Industrial Transportation League, and The Fertilizer Institute.

Respectfully submitted,

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